IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN THE MATTER OF:	Chapter 13
Jessica Alice Brown,	Case No. 15-42874-pwb
Debtor.	

Jessica Alice Brown,	
Plaintiff,	Adv. Proc. No. _________
vs.	
General Collections & Recoveries, Inc.,	
Defendant.	

COMPLAINT SEEKING DAMAGES IN ADVERSARY PROCEEDING

INTRODUCTION

This is an action for damages and equitable relief based upon the Defendant's overt and intentional unlawful conduct in the furtherance of its efforts to collect a consumer debt. The Defendant's conduct is in violation of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692, *et seq.*, and the Georgia Fair Business Practices Act ("GFBPA"), O.C.G.A. § 10-1-399, *et seq*. These claims arise as a result of Defendant's overt and intentional conduct.

JURISDICTION AND VENUE

1. This is a core proceeding as defined by 28 U.S.C. § 157, and this is a matter arising in a case under Title 11.

2. This Court has proper matter jurisdiction pursuant to 28 U.S.C. § 157(b) and § 1334.

3. Jurisdiction is conferred on this Court by 15 U.S.C. § 1640(e) and 28 U.S.C. §§ 1331 and 1337. Supplemental jurisdiction of the state law claims is conferred by 28 U.S.C. § 1367. Venue lies in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

4. The Plaintiff is a debtor in the underlying Chapter 13 pending in this Court, case number 15-42874-pwb.

5. The Defendant is a corporation organized under the laws of the State of Louisiana.

6. Defendant has entered the Plaintiff's Chapter 13 alleging that it is the agent for collection for an original creditor.

FACTUAL ALLEGATIONS

7. On November 24, 2015, Plaintiff's Chapter 13 proceeding was commenced by the filing of a voluntary petition with the Clerk of this Court.

8. On March 11, 2016, Defendant filed Proof of Claim Number 5 ("the POC") in

the amount of $1,512.00, alleging that it is the collection agent for Opelousas General Hospital original creditor.

9. The filing of the POC was an attempt by the Defendant to collect a debt against the Plaintiff.). See, *Crawford v. LVNV Funding, LLC*, 2014 U.S. App. LEXIS 13221 (11th Cir. Ala. July 10, 2014).

10. The Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

11. The Defendant is a "debt collector" as defined by 15 U.S.C. § 1692a(5) and (6).

12. The debt which is described in the POC 5 is a "consumer debt" as defined by15 U.S.C. § 1692a(3) and (5).

13. Attached to Defendant's POC is a print-out of a screen shot that purports to be Plaintiff's account information.

14. The Defendant's POC and the attachment thereto both show the date the debt was incurred as September 14, 2009.

15. The original debt giving rise to the POC is based upon medical services rendered.

16. The alleged debt giving rise to Defendant's claim is governed by the 3-year statute of limitation for such services as prescribed by Louisiana law, Louisiana Laws-R.S. 9 § 2781.

DAMAGES

17. As a result of Defendant's actions, Plaintiff has suffered actual damages,

including out-of-pocket expense to travel to meet with counsel; consumption of resources in the form of her attorney time and resources in challenging an unlawful claim; potential harm through possible payment of an unenforceable clam; and worry over the repercussions of Defendant's unlawful conduct.

FIRST CLAIM FOR RELIEF -- OBJECTION TO CLAIM

18. Plaintiff repeats and realleges paragraphs 1-17 as though more fully set forth herein.

19. The Debtor objects to Defendant's proof of claim on the grounds that it is time-barred as a matter of law per the supporting documentation filed by the Defendant and is therefore objectionable under 11 U.S.C. § 502(b)(1) and should be disallowed.

COUNT I

VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT ("FDCPA") 15 U.S.C. § 1692, *et seq*.

20. Plaintiff repeats and realleges the preceding paragraphs 1-17 as though more fully set forth herein.

21. Defendant's filing of its POC was an attempt to collect a consumer debt.

22. The Defendant has made numerous false, deceptive and misleading statements in its attempt to collect a consumer debt in violation of 15 U.S.C. §§ 1692e and 1692f.

23. The 11th Circuit has previously ruled that filing a proof of claim to collect a stale

debt violates the FDCPA including Sections 1692(d), 1692(e) and 1692(f). See, *Crawford*, infra.

24. The acts and omissions by Defendant constitute violations of the FDCPA including, but not limited to, collecting or attempting to collect amounts that are time-barred as a matter of law and by otherwise using unfair and deceptive methods in direction violation of 15 U.S.C. 1692f(1).

25. The Plaintiff has suffered actual damages as a result of Defendant's conduct as described herein.

26. As a result of Defendant's violations of the FDCPA, Defendant is liable to Plaintiff for actual damages, statutory damages in the amount of $1,000.00, costs of this action and reasonable attorney's fees as determined by the Court as mandated by 15 U.S.C. § 1692k.

COUNT II

VIOLATION OF THE GEORGIA FAIR BUSINESS PRACTICE ACT O.C.G.A. § 10-1-399, *et seq.*

27. Plaintiff incorporates by reference paragraphs 1-17 and 21-25 as though fully stated herein.

28. The GFPBA directs liberal interpretation and application, as well as harmony with the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1) which implements the FDCPA.

29. Defendant willfully engaged in unfair and deceptive practices to collect a consumer debt.

30. O.G.C.A. § 10-1-393(a) broadly prohibits unfair business practices, not limited to the exemplar list in the preceding subsection.

31. Defendant does not maintain a place of business in Georgia and has no assets in Georgia thus relieving the Plaintiff of the Notice and Demand requirement of O.G.C.A. § 10-1-399 (b).

32. As a result of Defendant's violations of O.C.G.A. § 10-1-393(a), Plaintiff is entitled to recover general damages as described herein pursuant to O.G.C.A. § 10-1-399(a).

33. Defendant's actions were intentional and/or knowing, rendering it liable for exemplary damages pursuant to O.G.C.A. §§ 10-1-399(a) and (c).

34. Plaintiff is entitled to recover reasonable attorney's fees and expenses pursuant to O.G.C.A. § 10-1-399(d).

WHEREFORE, the Plaintiff having set forth his claims for relief against the Defendant respectfully prays of the Court as follows:

A. That Proof of Claim Number 5 be disallowed;

B. That the Court award actual damages in an amount to be shown at trial, statutory damages in the amount of $1,000.00, costs and reasonable attorney's fees as determined by the Court pursuant to 15 U.S.C. § 1692k; and

C. That the Court award actual and exemplary damages pursuant to O.G.C.A. §§ 10-1-399(a) and (c);

D. That the Court award reasonable attorney's fees and expenses pursuant to 15 U.S.C. § 1692k and O.G.C.A. § 10-1-399(d); and

E. That the Plaintiff have such other and further relief as the Court may deem just and proper.

This the 8th day of November, 2016.

Respectfully submitted,

*/s/ Matthew T. Berry*________
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